

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the matter of Temporary
Permit 20309 (Application 29427)
of
John J. Farmar-Bowers
Permittee

ORDER: WR 89-5
SOURCE: Unnamed Stream
tributary to
Santa Rosa Creek
COUNTY: Sonoma

FINDINGS AND ORDER VALIDATING
TEMPORARY PERMIT

BY THE BOARD:

John J. Farmar-Bowers, having filed Application 29427 for a conditional temporary urgency permit to divert and use water pursuant to Chapter 6.5 (commencing with Section 1425), Part 2, Division 2 of the Water Code; the State Water Resources Control Board (Board), having consulted with the California Department of Fish and Game; Board Chairman W. Don Maughan, having reviewed available information and authorized issuance of a temporary permit; a temporary permit having been issued on March 7, 1989; the Board finds as follows:

SUBSTANCE OF THE APPLICATION

1. Application 29427 is for a temporary permit to store 30 acre-feet of water in an existing reservoir and to directly divert 0.56 cubic foot per second from March 3, 1989 to April 30, 1989. The total amount of water to be taken from the source will not exceed 60 acre-feet.
2. Two points of diversion are located within the SW $\frac{1}{4}$ of SE $\frac{1}{4}$ of projected Section 14, T7N, R7W, MDB&M on separate branches of an unnamed stream tributary to Santa Rosa Creek thence Laguna de Santa Rosa thence Mark West Creek thence Russian River.
3. Water will be used for the irrigation of 43 acres of flowers and ornamental plants at an existing commerical nursery.
4. The applicant holds licensed Application 14797 for onstream storage of 30 acre-feet per annum to be collected from November 1 of each year to April 30 of the succeeding year in the existing reservoir.

TEMPORARY URGENCY NEED OF APPLICANT TO DIVERT AND USE WATER

5. Due to drought conditions this year, the watershed of the existing reservoir has contributed little or no water for collection to storage under licensed

Application 14797. Consequently, the applicant intends to pump water to the reservoir, at a maximum rate of 0.56 cubic foot per second (approximately 250 gallons per minute), from an adjacent stream having a greater probability of generating runoff. Application 29427 also requests direct diversion of 0.56 cubic foot per second from the point of diversion on the adjacent stream as well as at the existing reservoir, to supplement a claimed riparian right, as irrigation at the nursery is required year round. Diversion under the temporary permit is to occur only during storm flows in the requested source.

6. The total quantity of water diverted to storage under the temporary permit, together with that diverted under licensed Application 14797, is limited to 30 acre-feet, equivalent to one filling of the reservoir.
7. Based on the above information, the Board concludes that the applicant has an urgent temporary need to divert and use water as authorized by Temporary Permit 20309.

EFFECT OF THE DIVERSION ON ANY LAWFUL USER OF WATER

8. Application 29427 was noticed on March 8, 1989 as required by the Water Code. The notice was posted and sent to interested parties known to the Board, including diverters having a possible conflict of diversion season downstream from the requested points of diversion to the confluence of Mark

West Creek and the Russian River. No objections were recieved. Therefore, the Board concludes that water may be diverted and used under the temporary permit without injury to any lawful user of water.

EFFECTS OF THE DIVERSION ON FISH, WILDLIFE, AND OTHER INSTREAM USES

9. Board staff consulted with a representative of the California Department of Fish and Game, who stated the temporary diversion would not unreasonably affect fish, wildlife, or other instream beneficial uses if the diversion is made only during storm flows. The temporary permit issued was conditioned accordingly.

FINDINGS CONCERNING THE ENVIRONMENTAL QUALITY ACT

10. A preliminary review of information provided by the applicant indicated that the project involves minor alterations in the condition of land, water, and/or vegetation which do not have the potential for causing a significant effect on the environment. Therefore, the project is not subject to the California Environmental Quality Act as provided under Title 14, California Code Regulations, Section 15304.

PUBLIC INTEREST

11. The Board concludes that water is available for diversion and use under Temporary Permit 20309 and that such diversion and use is in the public interest and in accordance with the constitutional policy that the water resources of the State be put to beneficial use to the fullest extent of which they are capable.

ISSUANCE OF TEMPORARY PERMIT

12. Water Code Section 1425(d) provides for delegation of authority to issue temporary permits. The Board has delegated this authority to each Board Member. Section 1425(d) further requires that, when the delegated authority is exercised, the Board shall, not later than 30 days following issuance, review and validate any temporary permit issued.
13. Board staff explained the foregoing situation to Board Chairman Maughan and recommended approval of the temporary permit. Board Chairman Maughan concurred with the staff recommendation, and on March 7, 1989, authorized issuance of a temporary permit to store 30 acre-feet and to directly divert 0.56 cubic foot per second from March 7, 1989 to April 30, 1989.
14. On March 7, 1989, Walter G. Pettit, Chief of the Division of Water Rights, issued Temporary Permit 20309.

ORDER

NOW, THEREFORE, IT IS ORDERED THAT issuance of Temporary Permit 20309 is validated subject to the conditions specified in the permit.

CERTIFICATION

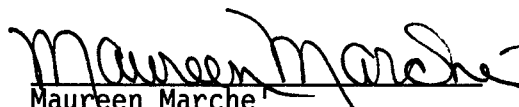
The undersigned, Administrative Assistant to the Board, does hereby certify that the foregoing is a full, true, and correct copy of an order duly and regularly adopted at a special meeting of the State Water Resources Control Board held on April 5, 1989.

AYE: W. Don Maughan
Darlene E. Ruiz
Edwin H. Finster
Eliseo M. Samaniego
Danny Walsh

NO: None

ABSENT: None

ABSTAIN: None


Maureen Marche
Administrative Assistant to
the Board

STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

TEMPORARY PERMIT 20309Application 29427 of John J. Farmar-Bowers6735 Sonoma Highway, Santa Rosa, CA 95409filed on March 6, 1989, has been approved by the State Water Resources Control Board SUBJECT TO VESTED RIGHTS and to the limitations and conditions of this Permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source:

Tributary to:

Unnamed Stream

Santa Rosa Creek thence

Laguna de Santa Rosa thence

Mark West Creek thence

Russian River

2. Location of point of diversion:	40-acre subdivision of public land survey or projection thereof	Section *	Town- ship	Range	Base and Meridian
<u>Diversion and Diversion to Offstream Storage</u>					
(1) By California Coordinate System, Zone 2, North 285,400 feet and East 1,827,400 feet	SW $\frac{1}{4}$ of SE $\frac{1}{4}$	14	7N	7W	MD
<u>Diversion and Rediversion</u>					
(2) By California Coordinate System, Zone 2, Unnamed Reservoir: North 284,800 feet and East 1,828,200 feet	SW $\frac{1}{4}$ of SE $\frac{1}{4}$	14	7N	7W	MD

County of Sonoma

*Projected

3. Purpose of use:	4. Place of use:	Section *	Town- ship	Range	Base and Meridian	Acres
Irrigation	SW $\frac{1}{4}$ of SW $\frac{1}{4}$	14	7N	7W	MD	3
	SE $\frac{1}{4}$ of SW $\frac{1}{4}$	14	7N	7W	MD	10
	SW $\frac{1}{4}$ of SE $\frac{1}{4}$	14	7N	7W	MD	5
	NE $\frac{1}{4}$ of NW $\frac{1}{4}$	23	7N	7W	MD	5
	NW $\frac{1}{4}$ of NE $\frac{1}{4}$	23	7N	7W	MD	20
					Total	43

The place of use is shown on map filed with the State Water Resources Control Board.

APPLICATION 29427

TEMPORARY PERMIT 20309

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 0.56 cubic foot per second by direct diversion and 30 acre-feet by storage from March 7, 1989 to April 30, 1989. The total amount of water to be taken from the source shall not exceed 60 acre-feet.

(0000005)

The maximum rate of diversion to offstream storage shall not exceed 0.56 cubic foot per second.

(000005J)

6. Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this temporary permit, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this temporary permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source.

(0000012)

7. This temporary permit is issued and permittee takes it subject to California Water Code, Division 2, Chapter 6.5, Section 1425 et seq. Any temporary permit issued under this chapter shall not result in creation of a vested right, even of a temporary nature, but shall be subject at all times to modification or revocation at the discretion of the State Water Resources Control Board.

(0510800)

8. The State Water Resources Control Board shall supervise diversion and use of water under this temporary permit for the protection of lawful users of water and instream beneficial uses and for compliance with permit conditions. Permittee shall allow representatives of the State Water Resources Control Board and other parties, as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this temporary permit.

(0510600)

9. The State Water Resources Control Board shall within 30 days review and validate this temporary permit, including the findings upon which it was issued, and should the Board fail or refuse to validate this temporary permit, it shall stand revoked as of the date of said Board meeting and shall be of no further force and effect.

(0530999)

10. This temporary permit shall automatically expire on April 30, 1989 without further action by the State Water Resources Control Board.

(0510700)

11. Permittee shall report to the State Water Resources Control Board by May 15, 1989 the maximum rate of diversion and the total amount of water diverted under this temporary permit.

(0100700)

12. Diversion under this temporary permit is authorized only during storm flows in the named source.

(0360800)

13. The total quantity of water diverted to storage under this temporary permit, together with that diverted under licensed Application 14797, shall not exceed 30 acre-feet.

(0000114)

Based upon the record in this matter, I find:

- A. That the applicant herein is an applicant for a water right entitlement under the provisions of Chapter 6.5 commencing with Section 1425, Part 2, Division 2 of the Water Code.
- B. That because of existing drought conditions this season and lack of flow in the unnamed stream which is the source for storage of 30 acre-feet per annum under applicant's License 5048 issued pursuant to Application 14797, temporary diversion to off-stream storage from a source more likely to contain storm runoff is justified.
- C. That the applicant has an urgent but temporary need to divert and use water under a temporary permit.
- D. That water is available for diversion and use by the applicant and may be diverted and used without injury to any lawful user of water and without unreasonable effect on fish, wildlife or other instream beneficial uses.
- E. That the proposed diversion and use of water under this temporary permit are in the public interest.
- F. That the project has been declared exempt in accordance with the California Environmental Quality Act.

Accordingly, issuance of the within temporary permit is hereby authorized.

Dated: March 7, 1989

W. Ron Maugh

In accordance with the foregoing, the temporary permit is hereby issued.

Walter J. Pett March 7, 1989
Chief, Division of Water Rights Date

This permit is issued and permittee takes it subject to the following provisions of the Water Code:

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Dated:

STATE WATER RESOURCES CONTROL BOARD

Chief, Division of Water Rights